



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/719,413

02/23/2001

Alex Esser

4925-101PUS

8344

7590

05/24/2004

Michael C Stuart
Cohen Pontani Lieberman & Pavane
551 Fifth Avenue Suite 1210
New York, NY 10176

EXAMINER

YUN, EUGENE

ART UNIT

PAPER NUMBER

2682

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/719,413

Applicant(s)

ESSER ET AL.

Examiner

Eugene Yun

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims ¹⁻⁸~~1~~ are rejected under 35 U.S.C. 102(e) as being anticipated by Haartsen (US 6,009,332).

Referring to Claim 1, Haartsen teaches a method for configuring a base station of a cellular network; characterized in that the method comprises the steps of:

- downloading information from the network about frequencies used by neighbouring base stations into a mobile communication means (see col. 8, lines 17-20);
- scanning a frequency band of the cellular network with said mobile communication means for determining signal levels within the frequency band (see col. 8, lines 49-57);
- receiving a selection of an operating frequency for the base station from the user of said mobile communication means (see col. 11, lines 57-59);
- transmitting configuration information comprising at least the selected operating frequency for the base station from said mobile communication means (see col. 11, lines 57-59), and
- configuring the base station according to the transmitted information (see col. 15, lines 7-9).

Referring to Claim 2, Harrtsen also teaches downloading at least one parameter set into said mobile communication means from the network (see col. 8, lines 17-20);

- selecting one parameter set from said at least one parameter sets for the base station using said mobile communication means (see col. 11, lines 57-59) and transmitting information about the selection of the parameter set to the cellular network (see col. 8, lines 35-37).

Referring to Claim 3, Haartsen also teaches selecting the transmission power of the base station using said mobile communication means (see col. 8, lines 32-37).

Referring to Claim 4, Haartsen also teaches creating the near neighbour relations of the base station (see col. 8, lines 45-48).

Referring to Claim 5, Haartsen also teaches adjusting the near neighbour relations of the base station (see col. 8, lines 45-48).

Referring to Claim 6, Haartsen also teaches the information about frequencies comprising information of BCCH frequencies of nearby cells and of TCH frequencies corresponding to said BCCH frequencies (see col. 8, lines 45-48).

Referring to Claim 7, Haartsen also teaches a processor for controlling frequency scanning (see col. 8, line 49), a memory for storing a program for the processor, a receiver and an antenna for receiving on a plurality of frequencies (fig. 1), transmitting means for transmitting data obtained from frequency scanning to a base station (fig. 1), processing means for scan a frequency band of the cellular telecommunications network for determining signal levels within the frequency band (see col. 8, lines 52-57) and processing means to transmit configuration information for the base station to the cellular network (see 20 and 21 of fig. 1).


Referring to Claim 8, Haartsen also teaches a display for presenting results of said frequency scanning and a keyboard for inputting data (see col. 1, lines 46-64 also noting that a display and keyboard are present in all cellular phones used today).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (703) 305-2689. The examiner can normally be reached on 8:30am-5:30pm Alt. Fridays off.


Art Unit: 2682

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eugene Yun
Examiner
Art Unit 2682

EY


LEE NGUYEN
PRIMARY EXAMINER